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February 11, 2020

BY ECF

Honorable Barbara Moses
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

MEMO ENDORSED

Re: Eslam Hassan v. Captain Williams, et. al.,
19-CV-8864 (AJN) (BCM)

Your Honor:

I am the attorney in the Office of the Corporation Counsel of the City of New York assigned to represent defendant City of New York in the above-referenced matter. I write in response to the Court's Order dated January 3, 2020 directing defendant City of New York to file a letter informing the Court about the status of the identification of the individuals that plaintiff purports to name as defendants in this matter. I now respectfully request a thirty (30) day enlargement of time, from February 11, 2020 until March 12, 2020, to fully respond to the Court's Order dated January 3, 2020. This is the first request for an enlargement of time to respond to the Court's Order dated January 3, 2020. I was unable to obtain plaintiff's consent to this request as, upon information and belief, plaintiff was released from the custody of the New York State Department of Corrections and Community Supervision on January 24, 2020 and has not yet updated his address with the Court.

By way of background, plaintiff filed the Complaint on September 24, 2019, alleging that on August 11, 2016, and August 20-22, 2016, his constitutional rights were violated while he was detained at the George R. Vierno Center on Rikers Island. As an initial matter, plaintiff has seven other federal civil rights actions pending in the Southern and Eastern Districts of New York, whereby he alleges that his constitutional rights were violated while in the custody of the New York City Department of Correction. This Office is currently in the process of investigating plaintiff's allegations and attempting to identify the individuals that plaintiff names as Jane and John Doe defendants in each of those actions.

On November 22, 2019, the Court ordered the New York City Department of Correction ("DOC") to inform plaintiff and the Court, whether it had been able to identify

Captains “Williams,” “Marral” and “White;” and Correction Officers “Brown,” “Witkins,” “Black,” “Davis,” “Rodriguez #11007,” John Doe #8724,” and “Atkins;” and if so, that they waive service. See Docket. No. 11. The Court further ordered plaintiff to file an Amended Complaint within thirty (30) days because the Complaint did not supply sufficient information to permit the New York City Law Department to identify the Jane and John Doe defendants. Id.

On December 17, 2019, DOC declined to waive service of the Summons and Complaint on behalf of Captains “Williams,” “Marral” and “White;” and Correction Officers “Brown,” “Witkins,” “Black,” “Davis,” “Rodriguez #11007,” John Doe #8724,” and “Atkins.” See Docket Nos. 15 and 16. On December 17, 2019, DOC inadvertently agreed to waive service of the Summons and Complaint on behalf of “Correction Officer Rodriguez #11007.” This was an error because the agency has since advised me that there are no matches between the name “Rodriguez” and shield number “#11007.” See Docket No. 17. On February 10, 2020, DOC corrected this error and declined to waive service on behalf of the individual that plaintiff names as Correction Officer “Rodriguez #11007.” See Docket No. 23. We apologize for any inconvenience this inadvertency has caused the Court.

On January 3, 2020, the Court ordered plaintiff to file a letter providing additional information about Captains “Williams” and “White;” and Correction Officers “Brown,” “Black,” “Davis,” “Paul” and “Atkins,” such as hair color, height, or eye color, and any other information that might help identify those individuals. The Court further ordered plaintiff to provide alternative spellings of the names of Captain “Marral” and Correction Officer “Witkins.”

The Court ordered defendant City of New York to file a letter (a) explaining whether DOC has attempted to identify the defendant “John Doe #8724;” (b) informing the Court how many male captains named Williams were “assigned and employed in intake as main intake” at GRVC “between 8:00 to 11:00 p.m.” on August 11, 2016; (c) informing the Court how many male correction officers named Atkins were “employed in [the] 19A housing until at GRVC” on August 22, 2016, “between 9:00 a.m. to 12:00 noon;” (d) identifying, based on plaintiff’s supplemental descriptions and/or the descriptions listed in paragraphs 1-28 of plaintiff’s Complaint, the individuals listed in DOC’s unexecuted waivers of service dated December 17, 2019; and (e) identifying, to the extent possible, each of the John and Jane Doe defendants listed in paragraphs 1-28 of plaintiff’s Complaint. See Docket No. 18.

On January 29, 2020, plaintiff filed a letter with the Court providing supplemental information describing defendants Captains “Williams,” “Marral” and “White;” and Correction Officers “Brown,” “Witkins,” “Black,” “Davis,” and “Atkins.” Although plaintiff provided an alternative spelling for Captain “Marral,” he did not provide an alternative spelling for Correction Officer “Witkins.” To date, even with the supplemental information provided by plaintiff, DOC has been unable to identify the individuals plaintiff names as Captains “Williams,” “Marral” and “White;” and Correction Officers “Brown,” “Witkins,” “Black,” “Davis,” “Rodriguez #11007,” “Paul” and “Atkins.”

DOC has confirmed that there are no employees with the surname “Marral” or “Marrel,” or “Witkins.” As stated previously, the fact that the remaining defendants have common surnames has contributed to DOC’s inability to determine their identities as of this writing. However, DOC has been able to identify “Correction Officer John Doe #8724” as Jose

Rodriguez. Mr. Rodriguez is currently on suspension by DOC with no planned return to duty. DOC's Legal Division is in the process of contacting Mr. Rodriguez to ascertain a suitable address for service of process. Since the shield number and name provided by plaintiff for a "Correction Officer Rodriguez" do not match, it is unclear whether the individual identified as Correction Officer Jose Rodriguez, Shield Number 8724, is the individual that plaintiff purports to name as "Correction Officer Rodriguez #11007."

After conducting a search of its records, DOC has determined that it does not have any record of any incident(s) involving plaintiff on August 11, 2016. However, they do have a record of an incident involving plaintiff that occurred on August 22, 2016. I have been working with DOC to request and obtain documents from the George R. Vierno Center, the facility where plaintiff was incarcerated on the dates of the alleged incidents. I have received and reviewed the following documents from DOC: plaintiff's Inmate File, Inmate Movement History, Inmate Infraction History, and Inmate Incarceration History. I am awaiting receipt of the personnel rosters for the dates of the alleged incidents which may assist with the identification of the individuals that plaintiff names by surname and the Jane and John Doe defendants. Further, a review of the personnel rosters for the dates of the alleged incidents will allow for a search of names that have similar spellings to the ones that plaintiff uses in the Complaint and his supplemental descriptions. Therefore, additional time is needed to search through the records of the correction officers and captains who were on duty at the date and time specified by plaintiff in his Complaint and supplemental letter in order to determine whether any match this description. I assure the Court that I am attempting to move this matter as quickly as I can but, truthfully, it is a time-consuming process.

Accordingly, this Office respectfully requests an enlargement of time until March 12, 2020 to ascertain, to the extent possible, the service address for the individual identified as Jose Rodriguez, and the full names and service addresses of Captains "Williams," "Marral" and "White;" and Correction Officers "Brown," "Witkins," "Black," "Davis," "Rodriguez #11007," "Paul," and "Atkins;" and the Jane and John Doe defendants who were allegedly involved in the incident at the George R. Vierno Center on August 11, 2016, and August 20-22, 2016.

Application GRANTED. The Clerk of Court shall mail a copy of this Order to the plaintiff. SO ORDERED.



Barbara Moses, U.S.M.J.
February 12, 2020

Respectfully submitted,



Stefano Pérez
Assistant Corporation Counsel
Special Federal Litigation Division

*I will monitor the Docket Sheet and send a copy of this document to plaintiff once he updates his address on the docket.